
**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-1731

MICHAEL A. SCOTT, et al.,
Plaintiffs-Appellants,
v.
BALTIMORE COUNTY, MARYLAND,
Defendant-Appellee.

MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*

**PUBLIC JUSTICE CENTER; LEGAL AID JUSTICE CENTER;
MOUNTAIN STATE JUSTICE; AND NATIONAL EMPLOYMENT
LAWYERS ASSOCIATION**

IN SUPPORT OF PLAINTIFFS-APPELLANTS

Monisha Cherayil
Lucy Zhou
Public Justice Center
201 N. Charles Street, Suite 1200
Baltimore, Maryland 21201
T: 410-625-9409
cherayilm@publicjustice.org
zhoul@publicjustice.org

Counsel for Amici Curiae

September 27, 2023

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Pursuant to Federal Rule of Appellate Procedure 29, the Public Justice Center, Legal Aid Justice Center, Mountain State Justice, and National Employment Lawyers Association respectfully move this Court for leave to participate as *amicus curiae* and file the accompanying amicus brief in support of Plaintiffs-Appellants. Plaintiffs-Appellants consent to this Motion. Defendant-Appellee does not consent to this Motion.

Amici Curiae state that they are private, non-profit organizations with no parent company, and no publicly held company holds more than 10% of their stock or has a direct financial interest in the outcome of the litigation. Pursuant to Fed. R. App. P. 29(a)(4)(E), *Amici Curiae* further state that the accompanying brief was not funded or authored, in whole or in part, by a party's counsel or any other person aside from *Amici*, their members, and their counsel.

Founded in 1985, the **Public Justice Center** ("PJC") is a Maryland non-profit civil rights and anti-poverty legal services and policy advocacy organization. This case represents the intersection of two of PJC's project areas. PJC's Workplace Justice Project advocates for justice and equity in the workplace and the human right to work with dignity, including by enforcing the Fair Labor Standards Act ("FLSA") in state and federal court. PJC's Prisoners' Rights Project works to end unjust conditions of confinement and other detention practices that

have a disparate impact on people of color. PJC’s strong interest in this case stems from the harm it has observed to individuals, families, and communities when workers—including those who are incarcerated—are excluded from employment law protections.

The **Legal Aid Justice Center** (“LAJC”) is a non-profit organization located in Virginia committed to battling poverty and injustice through partnership with people and communities directly impacted by a range of issues—including conditions in employment and in the criminal legal system—using a variety of legal tools (including community organizing, public education, media work, administrative advocacy, and litigation). LAJC provides legal advice and direct legal representation to low-income individuals who cannot afford private counsel in civil practice areas such as consumer protection, landlord-tenant, employment, education, immigration, and civil rights. LAJC’s interest in this case flows from two strands in its work—its representation of low-income workers in civil actions, typically under the FLSA, to recover underpayment, and its efforts to challenge abuses, including prison conditions, experienced by poor people in the criminal legal system. In this context, LAJC views the recognition of FLSA’s broad and remedial reach to coverage of workers exploited for profit by carceral institutions as important both to incarcerated people as workers and to other non-incarcerated

workers undercut by underpaid prison labor, and as a check on the government's inclination otherwise to view incarcerated people as exploitable.

Mountain State Justice (“MSJ”) is a non-profit legal services firm dedicated to redressing entrenched and emerging systemic social, political, and economic imbalances of power for underserved West Virginians, through legal advocacy and community empowerment offered regardless of ability to pay. Among its areas of focus, MSJ represents West Virginia workers in employment discrimination, black lung, and workplace safety litigation. MSJ has a strong interest in ensuring that West Virginia workers are protected from unfair competition created by the impacts of prison labor on employment opportunities and wage levels in the non-incarcerated community. MSJ additionally represents West Virginians who are incarcerated in the various state carceral facilities, and has a similarly strong interest in ensuring that the federal rights of its incarcerated clients employed by prison industries are protected.

Founded in 1985, the **National Employment Lawyers Association** (“NELA”) is the largest bar association in the country focused on empowering workers' rights attorneys. NELA and its 69 circuit, state, and local affiliates have a membership of over 4,000 attorneys who are committed to protecting the rights of workers, in employment, wage and hour, labor, and civil rights disputes. NELA attorneys litigate daily in every circuit, giving NELA a unique perspective on how

principles announced by courts in employment cases actually play out on the ground. Many NELA members represent workers fighting to be correctly classified under the Fair Labor Standards Act, including workers who are incarcerated and therefore are more vulnerable to workplace exploitation.

Because this appeal presents an issue of first impression that has significant implications for the marketplace, incarcerated workers, and non-incarcerated workers alike, *Amici Curiae* believe the additional historical, legal, and factual context presented in their brief are relevant and will be helpful to the disposition of this case.

Amici Curiae therefore respectfully request that the Court grant their motion for leave to file the accompanying amicus brief.

Respectfully submitted,

/s/ Monisha Cherayil

Monisha Cherayil

Lucy Zhou

Public Justice Center

201 N. Charles Street, Suite 1200

Baltimore, Maryland 21201

T: 410-625-9409

cherayilm@publicjustice.org

zhoul@publicjustice.org

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2023, the foregoing Motion for Leave to File Brief of *Amici Curiae* in Support of Plaintiffs-Appellants was filed through the CM/ECF system and thereby electronically served via ECF on all counsel of record in this matter.

September 27, 2023

/s/ Monisha Cherayil

Monisha Cherayil